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WESLEY WEIDNER

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

WESLEY WEIDNER,
Plaintiff,

v.

In the Name of the STATE OF NEVADA on
relation of the NEVADA DEPARTMENT OF
CORRECTIONS; DIRECTOR GREG COX,
individually; WARDEN DWIGHT NEVEN,
individually; ASSISTANT WARDEN
TIMOTHY FILSON, individually;
CORRECTIONS OFFICER FRANCO,
individually; ASSOCIATE WARDEN
JENNIFER NASH, individually;
CASEWORKER STACY BARRETT,
individually; INSPECTOR GENERAL DAVID
MOLNAR, individually; INSPECTOR BRIAN
SHIELDS, individually; INSPECTOR VICTOR
DANIELS, individually; INSPECTOR STEVE
LEMAIRE, individually; SENIOR C.O.
NORMAN, individually; DOE LICENSED
PRACTICAL NURSE; DOE CORRECTION
OFFICERS I-V; DOES I-X, inclusive; and
ROES I-X, inclusive,

Defendants.

CASE NO. 2:16-cv-02301-KJD-NJK

**STIPULATION AND ORDER TO EXTEND
DISCOVERY AND REMAINING CASE
MANAGEMENT DEADLINES**

(Eighth Request)

1 Plaintiff Wesley Weidner, by and through counsel, Marc A. Saggese, Esq., and Defendants
2 State of Nevada, Greg Cox, Dwight Neven, Timothy Filson, Joseph Franco, Jennifer Nash, Stacy
3 Barrett, David Molnar, Victor Daniels, Steve Lemaire, and Antoine Norman, by and through counsel,
4 Adam Paul Laxalt, Nevada Attorney General, and Jared M. Frost, Senior Deputy Attorney General,
5 hereby stipulate and agree to extend the discovery period and remaining case scheduling deadlines for
6 an additional thirty (30) days.

7 **I. BACKGROUND**

8 This is an inmate civil rights and tort action seeking damages for alleged actions or omissions of
9 staff at High Desert State Prison (HDSP) in Indian Springs, Nevada. Plaintiff is represented by
10 counsel. Plaintiff filed his original Complaint in state court on June 9, 2016. Plaintiff filed an
11 Amended Complaint on August 26, 2016. Defendants removed the case to federal court in September
12 2016. ECF No. 1; *see also* ECF No. 1-3 (Amended Complaint).

13 On October 26, 2016, Defendants Filson, Neven, Daniels, Molnar, Shields, Franco, Barrett,
14 Nash, Norman, and Lemaire filed an Answer.

15 On January 17, 2017, the Court granted the parties' second joint motion to extend all scheduling
16 deadlines. ECF No. 15. Pursuant to this order, the deadline to add parties or amend pleadings was
17 March 24, 2017, and discovery was set to close on June 26, 2017. *Id.*

18 On February 17, 2017, Defendant State of Nevada filed a Joinder to Defendants' Answer. ECF
19 No. 17.

20 On March 2, 2017, the Court granted the parties' third joint motion to extend discovery
21 deadlines. ECF No. 19. Pursuant to this order, discovery was set to close on August 25, 2017. *Id.* at 3.

22 On April 26, 2017, Defendant Cox filed a Joinder to Defendants' Answer. ECF No. 20.

23 On April 27, 2017, Defendants filed a motion for partial judgment on the pleadings. ECF No.
24 21. In their motion, Defendants argue that the State of Nevada should be dismissed as to Count I
25 because states are not proper defendants for section 1983 claims, and that Counts II and III should be
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1 dismissed because Plaintiff failed to comply with Nevada's mandatory naming requirement. *See* ECF
2 No. 21.

3 On May 16, 2017, Plaintiff filed a motion to amend the Amended Complaint. ECF No. 24.
4 Plaintiff also filed an opposition to Defendants' motion for partial judgment on the pleadings. ECF No.
5 25.

6 On May 23, 2017, Plaintiff filed another motion to amend the Amended Complaint. ECF No.
7 26.

8 On May 23, 2017, Defendants filed a reply brief concerning their motion for partial judgment
9 on the pleadings. ECF No. 27.

10 On May 26, 2017, the parties filed a joint interim status report. ECF No. 28.

11 On July 28, 2017, the Court granted the parties' fourth joint motion to extend discovery
12 deadlines. ECF No. 36. Pursuant to this order, discovery was set to close on November 23, 2017. *Id.* at
13 4.

14 On October 5, 2017, Plaintiff's counsel, the Potter Law Office, requested to withdraw
15 from this matter. ECF No. 38.

16 On October 5, 2017, the Court granted the motion to withdraw. ECF No. 40.

17 On October 11, 2017, the Court granted Defendants' motion to stay the proceedings pending a
18 determination as to Plaintiff's future representation and directed Plaintiff to file notice of whether he
19 intends to proceed without counsel by November 6, 2017. ECF No. 41.

20 On November 2, 2017, the Court granted Plaintiff's motion to extend the time to file his
21 representation notice until January 26, 2017. ECF No. 43. Pursuant to the order, the parties were
22 directed to file a proposed Discovery Plan and Scheduling Order within fourteen (14) days of Plaintiff
23 filing his notice. *Id.*

24 On November 30, 2017, the Court granted in part and denied in part Defendants' Motion for
25 Partial Dismissal. ECF No. 44. Pursuant to the order, Plaintiff was directed to amend his Complaint
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1 within fourteen (14) days. ECF No. 44; see also ECF No. 44 (Plaintiff's Motion to enlarge the time to
2 file an Amended Complaint for an additional 60 days).

3 On January 12, 2018, Attorney Marc A. Saggese filed an appearance on behalf of Plaintiff. ECF
4 No. 46.

5 On January 26, 2018, the Court entered an order approving the parties' joint discovery plan and
6 scheduling order. ECF No. 48. Pursuant to the order, all discovery was to be completed by April 26,
7 2018. Id. at 5.

8 On February 16, 2018, Plaintiff filed a Fourth Amended Complaint pursuant to this Court's
9 prior order. ECF No. 50; see also ECF No. 51 (granting Plaintiff's motion to extend the time to file and
10 serve the Fourth-Amended Complaint).

11 On March 8, 2018, the Court granted the parties' sixth joint motion to extend discovery
12 deadlines. ECF No. 53. Pursuant to this order, discovery was set to close on July 25, 2018.

13 On May 17, 2018, the Court granted the parties' seventh joint motion to extend discovery
14 deadlines. ECF No. 60. Pursuant to this order, discovery was set to close on August 9, 2018.

15 On July 3, 2018, Defendants filed A Motion to Withdraw as Counsel of Record for Joseph
16 Franco. ECF No. 79. That motion is set for hearing on July 19, 2018, at 10:00 a.m.

17 This stipulated eighth request to extend the discovery deadlines and remaining case
18 management deadlines follows.

19 **II. INFORMATION REQUIRED BY LOCAL RULE 26-4**

20 The parties provide the following information in accordance with Local Rule 26-4.

21 **A. Discovery completed**

22 Plaintiff and Defendants have produced initial and supplemental disclosures.

23 Defendants have responded to Plaintiff's first set of Requests for Production of
24 Documents.

25 Defendants have responded to Plaintiff's interrogatories to Defendant State of
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1 Nevada.

2 Defendants have responded to Plaintiff's interrogatories to Dwight Neven.

3 Defendant Neven has served Plaintiff with interrogatories.

4 Plaintiff has responded to Defendants' First Set of Requests for Admissions.

5 Plaintiff has responded to Defendant Filson's First Set of Interrogatories.

6 Plaintiff has taken the deposition of inmates Donald Hinton and James Hand.

7 Plaintiff has responded to Defendant Neven's First Set of Interrogatories.

8 Plaintiff has responded to Defendant Franco's First Set of Interrogatories.

9 Plaintiff has responded to Defendant Nash's First Set of Interrogatories.

10 Plaintiff has served all named Defendants with interrogatories, requests for production of
11 documents, and requests for admissions.

12 All Defendants, aside from Corrections Officer Franco, have responded to Plaintiff's
13 interrogatories, requests for production of documents, and requests for admissions.

14 Defendants took Plaintiff's deposition on June 5, 2018.

15 Defendants served initial expert disclosures.

16 **B. Discovery that remains to be completed**

17 Plaintiff has retained a prison security expert. Plaintiff requires additional time to produce its
18 expert report. Defendants require additional time to identify a rebuttal prison security expert and
19 produce a report.

20 Plaintiff has noticed multiple depositions of NDOC employees for July 24, 2018 – July 26, 2018.

21 **C. Reasons why the deadlines were not satisfied**

22 Since the Court approved the parties' seventh joint motion to extend discovery on May 16,
23 2018, Plaintiff has retained a prison security expert. However, Plaintiff will be unable to complete
24 necessary discovery in this matter prior to the expiration of this Court's deadlines because Plaintiff's
25 prison security expert needs additional time to complete his report. In addition, Plaintiff's counsel
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1 entered his appearance in January and continues working to familiarize himself with the case and
2 review all of the records.

3 **D. Proposed schedule for remaining deadlines**

4 After conferring as to the needs of the case, the parties propose the following schedule for
5 discovery and the remaining deadlines, to include an additional thirty (30) day discovery period
6 beginning August 9, 2018.

7	Expert disclosure deadline	August 9, 2018
8	Close of discovery and rebuttal expert deadline	September 10, 2018
9	Discovery motion deadline	October 10, 2018
10	Dispositive motion deadline	November 9, 2018

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1 The parties here state that their proposed discovery plan is made in good faith and not sought
2 for delay or any improper purpose, and that the additional time is needed to allow the parties to
3 complete discovery and adequately prepare the case for trial or other resolution.

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5 DATED this 9th day of July, 2018.

DATED this 9th day of July, 2018.

6 SAGGESE & ASSOCIATES, LTD.

ADAM PAUL LAXALT
Attorney General

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8 By: /s/ Marc A. Saggese
9 MARC A. SAGGESE, ESQ.
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10 732 S. Sixth Street, Suite 201
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11 Attorneys for Plaintiff

By: /s/ Jared M. Frost
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555 E. Washington Avenue, Suite 3900
Las Vegas, Nevada 89101
Attorneys for Defendants

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13 **SO ORDERED.**

14 Dated July 10, 2018

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18 UNITED STATES MAGISTRATE JUDGE
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